

## **Declaration**

I, Mark Cregan, hereby declare and state:

THAT I am one of the inventors of the invention disclosed and claimed in the present application, and that I previously submitted a Declaration dated August 20, 2008 in the present application, the entire content of which is incorporated herein by reference;

THAT I have reviewed the outstanding Office Action from the US-Examiner dated February 26, 2009 in the above referenced application, especially the Examiner's comments with regard to the prior art, especially Young et al. (Aus. J. Zool. 45:423-433; 1997) and Stingl et al. (Breast Cancer Res. Treat. 67:93-109; 2001).

THAT I continue to conclude that none of the prior art references, alone or in combination, teach or suggest my invention as set forth in the currently pending claims;

THAT, I continue to conclude that the prior art references are incompatible with each other and are not combinable in a manner that would lead to my invention, as detailed subsequently;

THAT, at least because the prior art does not have a teaching of the isolation of pluripotent progenitor cells from human mammary secretion by the Examiner's own admission, the claims should be found allowable.

Amended claims 1 and 18, among other features, specify that the progenitor cells are isolated from human mammary secretion, and that they are pluripotent cells.

### **1. Arguments for novelty and non-obviousness of claim 18:**

The examiner states in page 6 of the above mentioned office action that, even though the product was made by a different process, the claim is unpatentable if the product is the same as or obvious from a product of the prior art. I am of the opinion that the claimed product, i.e. pluripotent progenitor cells isolated from human mammary secretion, is new over the cited document, Stingl et al., for the following reasons:

#### **Stingl et al.:**

Stingl describes the isolation of primitive epithelial precursor cells from mammary tissue.